

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

SILVER GRYPHON, LLC, §
Plaintiff, §
§
v. § CIVIL ACTION H-14-1659
§
CITIMORTGAGE, INC., §
Defendant. §

ORDER

Pending before the court are defendant CitiMortgage, Inc.’s (“CMI”) motion to dismiss and plaintiff Silver Gryphon, LLC’s (“plaintiff”) motion for leave to amend its complaint. Dkt. 2; Dkt. 6 at 9–10. Plaintiff asserts a declaratory judgment claim to decide whether CMI has any interest in the disputed property and whether plaintiff received adequate notice of the foreclosure sale. Dkt. 1, Ex. A (original petition). Plaintiff also asserts a claim for injunctive relief to prevent foreclosure. *Id.* After reviewing the petition, briefing on the motion to dismiss, and applicable law, the court determines that this case presents facts that are materially identical to previous cases from this district and the Fifth Circuit rejecting similar claims. Thus, consistent with this court’s previous opinion in *Silver Gryphon LLC v. HSBC Bank USA, N.A.*, No. 4:14-cv-443, 2014 WL 2611811 (S.D. Tex. June 11, 2014) and the Fifth Circuit’s opinion in *Morlock, LLC v. Bank of Am., N.A.*, 2014 WL 2751142 (5th Cir. June 18, 2014), CMI’s motion (Dkt. 2) is **GRANTED**, plaintiff’s motion for leave (Dkt. 6 at 9–10) is **DENIED** as futile, and plaintiff’s claims are **DISMISSED WITH PREJUDICE**.

Signed at Houston, Texas on July 30, 2014.



Gray H. Miller
United States District Judge